

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  SMALL WIND INNOVATION ZONE — JOHNSON COUNTY	DOCKET NO. IAC-2012-1522
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**ORDER DESIGNATING SMALL WIND INNOVATION ZONE**

(Issued March 14, 2012)

On February 16, 2012, Johnson County, Iowa (Johnson County), filed with the Utilities Board (Board) an application for designation of its unincorporated areas as a Small Wind Innovation Zone pursuant to Iowa Code § 476.48 and 199 IAC 15.22. No objections or responses to Johnson County's application have been filed.

Iowa Code § 476.48 provides that political subdivisions may be designated as Small Wind Innovation Zones if certain requirements are met; the purpose of the statute is to allow owners of small wind energy systems located within a Small Wind Innovation Zone to benefit from a streamlined process to be interconnected with an electric utility. Iowa Code § 476.48(2)"a." To be designated as a Small Wind Innovation Zone, an area must be:

[A] political subdivision of this state, including but not limited to a city, county, township, school district, community college, area education agency, institution under the control of the state board of regents, or any other local commission, association, or tribal council which adopts, or is encompassed within a local government which adopts, the **model ordinance**.... (Iowa Code § 476.48(1)"c," emphasis added).

In accordance with Iowa Code § 476.48(3), the Model Ordinance was jointly developed by the Iowa League of Cities, the Iowa State Association of Counties, the Iowa Environmental Council, the Iowa Wind Energy Association, and representatives from the utility industry, and was made available on the Web sites of the Iowa League of Cities and Iowa State Association of Counties. Section 476.48(3) provides that a local government adopting the Model Ordinance "shall establish an expedited approval process with regard to small wind energy systems in compliance with the ordinance ... ."

In addition to adopting the Model Ordinance, a political subdivision that seeks to be designated as a Small Wind Innovation Zone must also be served by an electric utility that "has agreed to utilize the model interconnection agreement to contract with the small wind energy system owners who agree to its terms." Iowa Code § 476.48(2)"b." The Model Interconnection Agreement referred to in the statute was developed and adopted by the Board in Docket No. RMU-2009-0008. The adopted rules in 199 IAC 45 are mandatory for rate-regulated electric utilities and voluntary for non-rate-regulated electric cooperatives and municipal utilities. Therefore, if the area governed by a political subdivision is served by at least one rate-regulated utility, it is served by an electric utility that uses the Model Interconnection Agreement and meets the requirement of Iowa Code § 476.48(2)"b."

In its application, Johnson County provided a copy of Johnson County Zoning Ordinance No. 02-16-12-Z1, adopted February 16, 2012. The changes adopted in

Ordinance No. 02-16-12-Z1 match most of the provisions of the Model Ordinance. There are three areas, however, where Johnson County's ordinance departs from the Model Ordinance.

First, the Model Ordinance states that as long as the total extended height of a Small Wind Energy System meets setback requirements and is within Federal Aviation Administration limitations, there shall be no other height limitation. The Johnson County ordinance sets hub-height limitations of 100 feet and 150 feet for Private Wind Generators (10 kW or less) and Distributed Wind Generators (100 kW or less), respectively. Johnson County explained this is to comply with the requirements of its Land Use Plan, which requires preservation of the "scenic view shed" of Johnson County as much as possible. Johnson County added that variances can be granted as appropriate if surrounding property owners agree. The heights set by Johnson County in its ordinance are limited restrictions that reasonably accommodate Johnson County's scenic preservation policies and, therefore, substantially comply with the Model Ordinance.

Second, the Model Ordinance states that for Small Wind Energy Systems that are greater than 20 kW or mounted on a structure other than a free-standing tower, stamped approval of the plans by an Iowa registered engineer is required; and that for smaller systems 20 kW or less mounted on free-standing towers, standardized plans and specifications can be pre-approved for a manufacturer, allowing the manufacturer to bypass stamped approval of the plans for individual installations.

The Johnson County ordinance does not specifically provide for the pre-approval of standardized plans for smaller systems, but Johnson County explained in its application that while its ordinance does not specifically provide for the type of pre-approval described in the Model Ordinance, it does not exclude it either. Johnson County stated that its ordinance does not prevent a manufacturer from submitting a standard plan for approval by the building official, so long as a registered engineer can prove the manufacturer is submitting a plan similar to one approved in the past for similar soil conditions. Johnson County's explanation and interpretation of its ordinance is reasonable and the stated intention behind this portion of Johnson County's ordinance substantially complies with the Model Ordinance.

Third, the Model Ordinance states that Small Wind Energy Systems shall not normally produce sound at levels that constitute a nuisance and shall comply with any local ordinance that regulates sound levels as a nuisance. Johnson County said its ordinance does not address this requirement because Johnson County currently has no nuisance ordinance and does not quantify any level of noise that would be regarded as a nuisance. The Model Ordinance states that Small Wind Energy Systems "shall comply with any local ordinance regulating the volume of sound as a nuisance" (emphasis added). Therefore, where there is no local ordinance regulating sound as a nuisance, there is no conflict with the Model Ordinance by omitting this provision of the Model Ordinance.

Johnson County provided letters from MidAmerican Energy Company, Interstate Power and Light Company, and Linn Country REC; each utility stated in its letter that it provides service to portions of Johnson County and is subject to the provisions of 199 IAC 45. Johnson County also provided similar letters from Farmers Electric Cooperative and T.I.P. Rural Electric Cooperative stating that they are not subject to the provisions of 199 IAC 45, but nonetheless agree to use the standard procedures, forms, and agreements in 199 IAC 45 for small wind energy systems in their service territories within Johnson County. Two other electric cooperatives serving Johnson County, ECI REC and Eastern Iowa Light and Power Cooperative, also submitted letters stating that they are not subject to the provisions of 199 IAC 45, but state that they have interconnection procedures, forms, and agreements similar to those in 199 IAC 45.

Johnson County is in substantial compliance with the Model Ordinance and is served by more than one or more electric utilities that utilize the Model Interconnection Agreement under 199 IAC 45. The Board will approve Johnson County's application for designation of its unincorporated areas as a Small Wind Innovation Zone.

**IT IS THEREFORE ORDERED:**

The application to be designated a Small Wind Innovation Zone filed by Johnson County, Iowa, on February 16, 2012, is approved. The unincorporated

areas of Johnson County, Iowa, are hereby designated as a Small Wind Innovation Zone.

**UTILITIES BOARD**

/s/ Elizabeth S. Jacobs

/s/ Darrell Hanson

ATTEST:

/s/ Joan Conrad  
Executive Secretary

/s/ Swati A. Dandekar

Dated at Des Moines, Iowa, this 14<sup>th</sup> day of March 2012.